

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, FINDING A PUBLIC NEED AND NECESSITY FOR THE ACQUISITION OF CERTAIN PROPERTY RIGHTS FROM KANSAS CITY SOUTHERN RAILROAD; AUTHORIZING THE EXECUTION OF DOCUMENTS FOR THE ACQUISITION OF THOSE PROPERTY RIGHTS NECESSARY FOR A PUBLIC ACCESS EASEMENT FOR THE CONSTRUCTION OF A PEDESTRIAN WALKWAY TO CROSS A PORTION OF THE KANSAS CITY SOUTHERN RAILROAD RIGHT OF WAY LOCATED IN THE CITY OF CARROLLTON; DECLARING THE PUBLIC NEED AND NECESSITY; AUTHORIZING THE CITY MANAGER OF THE CITY OF CARROLLTON TO EXECUTE DOCUMENTS AND TAKE ALL NECESSARY ACTION FOR THE ACQUISITION OF A PUBLIC ACCESS EASEMENT FOR PUBLIC PURPOSES; AUTHORIZING THE CITY MANAGER TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AND AUTHORIZING THE CITY ATTORNEY THE USE OF EMINENT DOMAIN TO CONDEMN PROPERTY AND TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Carrollton, Texas ("City") has determined there is a public need and necessity for the health, safety, and welfare of the City of Carrollton and the public at large to acquire a public access easement for the construction of a walking path on a proposed tract in the vicinity of a Kansas City Southern ("KCS") Railroad bridge & trestle located between KCS railroad mile marker 82 and KCS railroad mile marker 80 in Carrollton, Texas, Denton County, northwest of the railroad grade crossing at Hebron Parkway. The proposed area is an approximately 0.38 acre(s) tract of land. The tract lies partially within the S. B. Evans Survey, Abstract No. 397 and partially within the H. Grooms Survey, Abstract No. 441. It is wholly contained within the KCS Railroad 150' right-of-way. Further, it is bordered on the north by Mustang Park Phase 5 described in Cabinet 2013, Slide 74, of the Denton Central Appraisal District and bordered on the south by the Autumn Chase Addition described in Cabinet N, Page 45, of the Denton Central Appraisal District, by the Diamond Ridge Addition Phase 2 described in Cabinet O, Page 316, of the Denton Central Appraisal District and by the Arbor Creek School Addition described in Cabinet I, Page 65 of the Denton Central Appraisal District. The location of the proposed area is set forth in the diagram attached hereto as Exhibit A with the proposed area for acquisition shown on Exhibit B ("Property");

**WHEREAS**, the existing dirt walking path is used as a point of access by citizens and visitors of the City which does not affect the existing use of the Property or interfere with railroad transportation, and a public access easement at the Property will not affect the existing use of the property nor will it interfere with railroad transportation;

**WHEREAS**, the construction of this project constitutes a public use for a public purpose to ensure access and protect the safety of persons using the path, and requires the

acquisition of a public access easement for the Property, which shall be used for a pedestrian walkway and other public uses incidental thereto; and

**WHEREAS**, the City Council of the City has considered this project and has determined that a public need and necessity exists for this project and for the acquisition of certain property rights for this project and is in the best interests of the residents and visitors of the City of Carrollton.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CARROLLTON, TEXAS, THAT:**

Section 1

The above and foregoing recitals are found to be true and correct and are incorporated herein and made part hereof for all purposes.

Section 2

The City Council hereby finds and determines that a public need and necessity exists for the City of Carrollton for the construction and use of a pedestrian walkway and other public uses incidental thereto at the Property, and a public need and necessity exists to acquire the necessary property rights in the Property, the location of which is generally set forth in the maps attached hereto as Exhibit A.

Section 3

The City Council hereby authorizes and directs the City Manager or his designee to execute documents, as needed, to acquire all necessary easements for a pedestrian walkway on the Property, for the construction and use of an public access easement and other public uses incidental thereto, and to do each and every act necessary to acquire the needed property rights in compliance with State and Federal law including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare and execute contracts, and to designate a qualified appraiser of the property to be acquired when such appraisal is necessary.

Section 4

The City Manager or his designee is specifically authorized to establish the just compensation for the acquisition of the Property, subject to the availability of funds appropriated by the City Council for such purpose.

Section 5

If the City Manager or his designee determines an agreement as to compensation or damages cannot be reached, then the City Attorney or her designee is hereby authorized and directed to institute proceedings in eminent domain and take all steps necessary against

the owners and interested parties of the Property to acquire the above-stated interests in the Property.

Section 6

This Resolution shall take effect upon passage.

PASSED AND APPROVED ON \_\_\_\_ DAY OF \_\_\_\_\_, 2016.

**CITY OF CARROLLTON, TEXAS**

\_\_\_\_\_  
Matthew Marchant,  
Mayor

ATTEST:

\_\_\_\_\_  
Laurie Garber,  
City Secretary

Approved as to form:

\_\_\_\_\_  
Susan Keller,  
Assistant City Attorney

Approved as to content:

\_\_\_\_\_  
Cesar J. Molina, Jr., P.E.  
Director of Engineering